

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Stephen Lawrence et al.
APPLICATION NO.: 10/749,434
FILING DATE: December 31, 2003
TITLE: Method and Systems for Improving a Search Ranking Using
Article Information
EXAMINER: Paul Kim
GROUP ART UNIT: 2161
ATTY. DKT. NO.: 24207-10095

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Dated: November 17, 2008

By: /Christopher King/

Christopher P. King, Reg. No. 60,985

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REPLY BRIEF

This Reply Brief is filed in accordance with 37 CFR § 41.41 in response to the Examiner's Answer, which was mailed on October 15, 2008.

Argument

A. Uchiyama Fails to Disclose Each and Every Limitation of Claim 105

Independent claim 105 recites, in part:

determining client-side behavior data **associated with an article stored in a client device**;
...
storing the predetermined client behavior score in a **data store in the client device**;
...
receiving a search query;
...
receiving from the **data store** the predetermined client behavior score associated with the article;
arranging the article in a search result of the search query in an order based at least in part on the predetermined client behavior score associated with the article;
...

Thus, both the article and the predetermined client behavior score are stored in the client device. Further, the predetermined client behavior score is later received from the data store in the client device and used to arrange an article in a search result.

On page 9 of his Answer, the Examiner interprets the claim language “determining client-side behavior data associated with an article stored in a client device” in two alternate manners, both of which are flawed. First, the Examiner construes this claim language to state that it is the **client-side behavior data associated with the article**, rather than the article itself, that is stored in the client device, and further alleges that the Uchiyama central **server** can be validly interpreted to be the “**client** device.” This construction, if accepted, would free the Examiner from the necessity of establishing that both the article and the predetermined client behavior score are stored in the client device. Such a construction fails at the outset, however, since the claim language plainly states that it is the **article** that is stored in the client device, not the

behavior data. Note that the claim language recites “behavior data associated with an article stored in a client device,” and not, for example, “behavior data associated with an article and stored in a client device.” As further support for the interpretation that the article is stored in the client device, note that FIG. 1 of the application as filed sets forth one embodiment of the invention clearly depicting a client article 171 within the representative client 102a. Thus, the Examiner’s first interpretation is untenable.

Second, the Examiner confusingly also interprets the same claim language as stating that the **article** is stored in the claimed client device. The Examiner then proceeds to equate the user terminal of Uchiyama with the client device, further stating that since the user terminal is used for browsing, it would inherently store a browsed webpage (the alleged “article”). However, since the claim language recites that the predetermined client behavior score is stored in a data store on the “client device” and also received therefrom for arranging an article in a search result, then under the Examiner’s second interpretation the client behavior score would need to be stored on and received from the Uchiyama user terminal. However, the aspects of Uchiyama considered by the Examiner to constitute the client behavior score, such as URLs visited and duration of time spent at a site, are stored on the **central server**, not the user terminal, and further are without question received from the central server when arranging an article in a search result. (*See, e.g.,* Uchiyama paragraph 0016, line 12, paragraph 0073).

Both interpretations advanced by the Examiner are flawed, and thus independent claim 105 is not anticipated by Uchiyama under either interpretation for these additional reasons, in addition to those already discussed above with respect to independent claim 25.

B. Claims 64-70, 72-79, 81-82, 85-91, 93-100, and 102-103 are Patentable over

Uchiyama and Official Notice

The Examiner's Answer did not advance any new arguments regarding the rejections beyond those already addressed in the Appeal Brief of July 25, 2008. Thus, the Appeal Brief remains fully applicable.

Additionally, in response to the Examiner's contention that Appellants did not adequately traverse the Official Notice, Appellants further note that they have in fact previously asserted why the various noticed facts are not considered to be common knowledge. For example, in the Response of October 9, 2007, Appellants did not merely make "A general allegation that the claims define a patentable invention without any reference to the examiner's assertion of official notice" (MPEP 2144.03, (C)), but rather noted that the use of the features of the dependent claims **in the context of their independent claims** constituted esoteric technology not "capable of instant and unquestionable demonstration of being well-known." For example, regarding claim 69, which recites that the additional client-side behavior data comprises idleness data, Appellants traversed the Official Notice, pointing out that the use of idleness data **itself** is not the issue. Rather, the issue is whether it is well known **to calculate a predetermined client behavior score for an article based on idleness data associated with the article**, for example. Since Appellants pointed this out and noted that such features constitute an area of esoteric technology, Appellants respectfully submit that their traverse of the Official Notice was adequate, and the Examiner was thus obliged to support his finding with adequate evidence. Since the Examiner did not do so, the rejections are inadequate.

Summary

For the foregoing reasons, as well as for those previously articulated in the Appeal Brief of July 25, 2008, Appellants believe that the Examiner's rejections of claims 25, 54, and 62-105 were erroneous, and respectfully request that the Board reverse the rejections.

Respectfully submitted,
STEPHEN R. LAWRENCE ET AL.

Dated: November 17, 2008

By: /Christopher King/

Christopher P. King, Reg. No. 60,985
Attorney for Appellants
FENWICK & WEST LLP
801 California Street
Mountain View, CA 94041
Phone: (650) 335-7633
Fax: (650) 938-5200